AMERICAN LEGISLATIVE EXCHANGE COUNCIL

MEMORANDUM

TO: TAX AND FISCAL POLICY TASK FORCE MEMBERS

FROM: JONATHAN WILLIAMS, TASK FORCE DIRECTOR

DATE: OCTOBER 30, 2013

RE: 35 DAY MAILING—ALEC'S STATES AND NATION POLICY SUMMIT: TAX AND FISCAL POLICY TASK FORCE

The American Legislative Exchange Council will host its States and Nation Policy Summit at the Grand Hyatt – Washington, D.C. on December 4-6, 2013. The Public Pension Reform Working Group will convene on the morning of Wednesday, December 4 from 8:30 AM until 9:30 AM. The Fiscal Policy Reform Working Group will also meet on Wednesday, December 4, from 9:45 AM until 11:15 AM. **The Tax and Fiscal Policy Task Force will meet from 2:30 p.m. until 5:30 p.m. on Thursday, December 5.**

Please find the following materials enclosed:

- Annual Meeting Tentative Schedule
- Task Force Meeting Tentative Agenda
- Draft Model Legislation Summaries
- Draft Model Legislation
- Articles of Interest
- ALEC Mission Statement
- ALEC Task Force Operating Procedures

The attached is not official ALEC model policy until it passes both the Tax and Fiscal Policy Task Force and ALEC's National Board of Directors

Travel and Accommodations: The Exchange Council's States and Nation Policy Summit and all Task Force meetings will be held in Washington, D.C., at the Grand Hyatt - Washington. Please register for the conference online at www.alec.org. If you have any questions about registration, contact our events department at 571-482-5056. Please note that the deadline to register for the meeting and lodging at an early bird rate is **November 6.**

I look forward to seeing all of you in our nation's capital, for what is sure to be an excellent meeting. If you have any questions or comments regarding the meeting, please contact me at 571-482-5066 or by e-mail at jwilliams@alec.org.

Cordially,

Jonathan Williams
Tax & Fiscal Policy Task Force Director

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Date & Time	Program
Tuesday, December 3	
9:00am - 5:00pm	Joint Board of Directors Meeting
1:00pm - 6:00pm	**Registration**
2:00pm - 6:00pm	Exhibitor Set Up
6:00pm - 9:00pm	Board of Directors Receptions and Dinner

Date & Time	Program
Wednesday, December 4	
7:00am - 6:00pm	**Registration**
7:00am - 9:00am	Exhibitor Set Up
7:30am - 11:30am	Subcommittee Meetings (Check with Task Force Director)
9:00 - 5:00pm	**ALEC Exhibition Hall Open**
9:00am - 11:00am	State Chairs Meeting
11:30am - 1:15pm	**Opening Luncheon (Speaker TBA)**
1:30pm - 2:45pm	Workshops (Topics TBA)
3:00pm - 4:15pm	Workshops (Topics TBA)
5:30pm - 6:30pm	**Jefferson Reception**

Date & Time	Program
Thursday, December 5	
7:00am - 7:00pm	**Registration**
8:00am - 9:15am	**Plenary Breakfast (Speakers TBA)**
9:30am - 5:00pm	ALEC Exhibition Hall Open
9:30am - 10:45am	Workshops (Topics TBA)
11:00am - 12:15pm	Workshops (Topics TBA)
12:30pm - 2:15pm	**Plenary Lunch (Speakers TBA)**
2:30pm - 5:30pm	Justice Performance Project
2:30pm - 5:30pm	Health and Human Services Task Force Meeting
2:30pm - 5:30pm	Tax and Fiscal Policy Task Force Meeting
2:30pm - 5:30pm	International Relations Task Force Meeting
6:00pm - 7:00pm	**Reception**

Date & Time	Program
Friday, December 6	
7:30am - 3:00pm	**Registration**
8:00am - 9:15am	**Plenary Breakfast (Speakers TBA)**
9:30am - 2:00pm	ALEC Exhibition Hall Open
9:30am - 10:45am	Workshops (Topics TBA)
11:00am - 12:15pm	Workshops (Topics TBA)
12:30pm - 2:15pm	**Plenary Lunch (Speakers TBA)**
2:30pm - 5:30pm	Civil Justice Task Force Meeting
2:30pm - 5:30pm	Commerce, Insurance and Economic Development Task Force Meeting
2:30pm - 5:30pm	Communications and Technology Task Force Meeting
2:30pm - 5:30pm	Education Task Force Meeting
2:30pm - 5:30pm	Energy, Environment, and Agriculture Task Force Meeting
2:00pm - 5:00pm	Exhibitor Load Out
6:00pm - 7:00pm	**Reception**
7:00pm-11:00pm	State Night (Contact Your State Chair)

TAX AND FISCAL POLICY TASK FORCE
ALEC'S 2013 STATES AND NATION POLICY SUMMIT
WASHINGTON, D.C.
THURSDAY, DECEMBER 5TH, 2:30 P.M. – 5:30 P.M.

2:30 Call to Order, Welcome, and Introductions

2:35 Old Business – Approval of Annual Meeting Minutes

2:40 A Report from the Public Pension Reform Working Group

2:45 A Report from the Fiscal Policy Reform Working Group

2:50 Budgeting for Priorities in Indiana

3:05 Update from Washington

3:35 The Crossroads of Federal and State Budgets

3:45 The Possible Consequences of a State Fiscal Emergency

3:55 State Economic Principles

4:05 New Research on State Pension Funds

4:15 Appropriation by Litigation

4:25 2014 Legislative Session Preview

4:40 Update on Multi-State Tax Policy

4:50 Discriminatory Sales Taxes

5:00 Consideration of Proposed Model Legislation

I. Resolution to Reduce the State's Dependence on Federal Funds
II. Federal Funds Commission Act
III. Statement of Principles on States' Dependence on Federal Funds

5:15 Model Legislation for Five Year Review Process

I. Constitutional Amendment Restricting the Use of Vehicle Fees and Taxes for Highway Purposes
II. Resolution to Oppose NCCUSL Effort to rewrite the Uniform Division of Income for Tax Purposes
III. Resolution to Permanently Repeal the Federal Unified Gift and Estate Tax

IV. Resolution Urging Congress to Reject "Windfall Profits" Taxes on Energy Companies
V. Resolution Urging Congress to Update Tax Treatment of Cell Phones
VI. Statement of Principles for Model State Laws to Encourage Philanthropic Creation and Operation
VII. Statement of Principles on Philanthropic Freedom
VIII. Resolution Urging Congress to Eliminate Discriminatory State and Local Taxes on Automobile Renters

5:25 New Business

5:30 Adjournment

LIMITED GOVERNMENT • FREE MARKETS • FEDERALISM

2013 States and Nation Policy Summit
Washington, D.C. – December 5, 2013
Tax and Fiscal Policy Task Force
Bill Summaries

Proposed Model Policies for Task Force Consideration

Federal Funds Commission Act

This bill creates the Federal Funds Commission to study and make recommendations on federal funding in a state's budget, assess risks of a significant loss of federal funding, and contingency plans for continued services from the state in the event of a reduction of federal assistance.

Resolution to Reduce the State's Dependence on Federal Funds

Increasingly, states are relying to a greater degree on federal grants and subsidies to cover programs in the states' budget. Gridlock in Congress, however, has put the reliability of those funds in jeopardy, risking the possibility that states may budget for federal funds that never arrive. In order to ensure the continuation of state programs and minimize disruption in the event of a federal appropriations lapse, states must reduce their dependence on federal funds for day-to-day operations.

Statement of Principles on States' Dependence on Federal Funds

This statement of principles highlights the common practice of relying on federal funds to bolster a state's general revenue for programs, and encourages legislators to evaluate the risk of an unexpected decrease in federal funding and agencies to prepare contingency plans to continue operations.

Model Policies for Five Year Review Process

Constitutional Amendment Restricting the Use of Vehicle Fees and Taxes for Highway Purposes

Requires all fees collected by the state as license fees for motor vehicles and all excise taxes collected on the sale, distribution or use of motor vehicle fuel, and any another motor vehicle related tax or fee shall be paid into the state treasury and placed in a special fund to be used exclusively for highway purposes.

Resolution to Oppose NCCUSL Effort to Rewrite the Uniform Division of Income for Tax Purposes Act

This resolution opposes the effort being undertaken by the National Conference of Commissioners on Uniform State Laws (NCCUSL) to rewrite the Uniform Division of Income for Tax Purposes Act (UDITPA). This resolution recognizes that state tax competition and the fundamental right of states to design their own tax structures to reflect the unique nature of their geographical, cultural, and political climates weighs against the NCCUSL effort to develop a uniform approach to taxing income. Further, this resolution recognizes that NCCUSL is funded

by state appropriated monies and expresses our concern that NCCUSL would use such funds on an effort that contravenes the competition among states.

A Resolution Urging Congress to Reject "Windfall Profits" Taxes on Energy Companies
The United States cannot afford to impose additional taxes on companies that are responsible for producing energy to American consumers. This resolution encourages Congress to abstain from passing any legislation which would impose "windfall profits" taxes or other discriminatory taxes on energy companies.

Resolution Urging Congress to Update Tax Treatment of Cell Phones
This bill urges the United States Congress to repeal the Tax Code's treatment of cell phones and similar telecommunications equipment as listed property and its burdensome reporting requirements for employees.

Statement of Principles for Model State Laws to Encourage Philanthropic Creation and Operation
The independence of thought and diversity of interests and perspectives of so many committed private actors is the wellspring of the sector's vitality, and must therefore be protected. This deeply-rooted American tradition should be honored as one of America's finest achievements and as evidence of people's capacity for individual initiative and self-governance, not burdened with costly and potentially crippling constraints on its work.

Statement of Principles on Philanthropic Freedom
Philanthropy exemplifies the American ideal of private action in the public interest, demonstrating our faith in the capacity of individual citizens not only to create wealth, but also—voluntarily—to care for their country, their communities, and their fellow citizens without undue reliance on government.

Resolution Urging Congress to Eliminate Discriminatory State and Local Taxes on Automobile Renters
This resolution encourages Congress to eliminate discriminatory State and Local Taxes on automobile renters.

RESOLUTION TO REDUCE THE STATE'S DEPENDENCE ON FEDERAL FUNDS

Bill Summary:
Increasingly, states are relying to a greater degree on federal grants and subsidies to cover programs in the states' budget. Gridlock in Congress, however, has put the reliability of those funds in jeopardy, risking the possibility that states may budget for federal funds that never arrive. In order to ensure the continuation of state programs and minimize disruption in the event of a federal appropriations lapse, states must reduce their dependence on federal funds for day-to-day operations.

WHEREAS, the Legislature of the state declares that the nation's fiscal recklessness poses a great, clear, and present threat to America's future;

WHEREAS, David Walker, former Comptroller General of the United States warns, "The most serious threat to the United States is not someone hiding in a cave in Afghanistan or Pakistan, but our own fiscal irresponsibility";

WHEREAS, the federal government is now in its fourth year of not passing a budget;

WHEREAS, the national debt has now surpassed $17 trillion, more than $140,000 per household;

WHEREAS, annual deficits have exceeded $1 trillion for each of the last four years, and unfunded obligations for social programs now exceed $85 trillion, with no apparent Congressional resolution on the horizon;

WHEREAS, it took 200 years for the United States to accumulate the first trillion dollars in debt and only 286 days to accumulate the most recent trillion;

WHEREAS, $85 billion per month of the national debt and annual deficits are now offset through Federal Reserve operations such as "quantitative easing" and "operation twist";

WHEREAS, states receive between 24 percent and 49 percent of their general revenue from federal funds, and on average rely on the federal government for 36 cents of every dollar spent in state budgets.

WHEREAS, in its recently released audit of the federal government's financial statements, the Government Accountability Office declared, "Over the long term, the structural imbalance between spending and revenue will lead to continued growth of debt held by the public as a share of GDP [Gross Domestic Product]; this means the current structure of the federal budget is unsustainable";

WHEREAS, this fiscal scenario is by all accounts unsustainable for the nation as well as for our state;

WHEREAS, in May 2012, the American Institute of Certified Public Accountants, in its review of the federal government's most recent annual financial statements, warned, "The U.S. is not exempt from the laws of prudent finance. We must take steps to put our financial house in order. The credit rating agencies have recently issued renewed warnings of U.S. credit downgrades unless substantive reforms are made. Our current fiscal policy results in mortgaging our nation's future without investing in it, leaving our children, grandchildren and future generations to suffer the consequences. This is irresponsible, unethical and immoral";

WHEREAS, restoring fiscal sanity and sustainability is at the heart of jumpstarting economic growth and fostering a business climate where companies can grow and begin to hire; and

WHEREAS, absent credible actions to address this fiscal irresponsibility, uncertainty will continue to dominate business decision making and economic recovery will languish:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state, the Governor concurring therein, wholeheartedly support a comprehensive state management process to assess the immediacy, severity, and probability of risks from any reductions of federal funds to the state and how the state will marshal its resources, both human and capital, to prioritize and provide the most essential government services.

BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge local, state, and national representatives to take immediate and sustained action to eliminate deficit spending and secure economic self-reliance to the state and to the United States.

BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the President of the United States and the United States Congress to pass a budget each year and adopt a credible and sustainable plan to balance those budgets.

BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the state's towns, cities, and counties to adopt and implement comprehensive financial risk management measures as soon as possible.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the Attorney General of the United States, the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and members of the state's congressional delegation.

Federal Funds Commission Act

Summary

This bill creates the Federal Funds Commission to study and make recommendations on federal funding in a state's budget, assess risks of a significant loss of federal funding, and contingency plans for continued services from the state in the event of a reduction of federal assistance.

Model Legislation

{Title, Enacting Clause, etc.}

Section 1. This This Act may be cited as the Federal Funds Commission Act.

Section 2. {Definitions.}

(A) "Commission" means the [state] Federal Funds Commission.

Section 4. {Commission Creation and Members.}

(A) There is created an advisory commission known as the Federal Funds Commission.

(B) The commission consists of 13 members as follows:

1. three members of the Senate, appointed by the president of the Senate, no more than two of whom may be from the same political party;

2. three members of the House of Representatives, appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party;

3. three individuals appointed by the governor, no more than two of whom may be from the same political party; and

4. four individuals selected by commission members appointed under the previous sections, these members will be selected for the commission by first being nominated then seconded and approved by a majority vote of the original 9 members of the commission;

5. The commission shall select a chair and a vice chair from among its members.

(C) Terms of Commission Members, Vacancies, Salaries, and Expenses

1. The term of commission members is two years

2. A commission member may be reappointed to a successive term
3. Beginning [Insert Appropriate Date], the term of commission members shall be staggered so that the term of approximately half of the members expires every year.

4. A commission member may be removed from the commission by the person or persons who appointed the member.

5. Subject to Subsection (7), a commission member appointed under Subsections 1 or 2 who leaves office as a legislator may not continue to serve as a commission member.

6. A vacancy in the commission shall be filled in the same manner as the appointment of the member whose departure from the commission creates the vacancy.

7. A commission member shall serve until a successor is duly appointed and qualified.

8. Salaries and expenses of commission members who are legislators shall be paid in accordance with [Insert appropriate legal section] and Mileage Reimbursement for Authorized Legislative Meetings, Special Sessions, and Veto Override Sessions.

9. A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member at the rates established by [Insert appropriate legal section]

Section 5. {General Powers and Duties of the Commission.}

(A) Until [Insert appropriate date] the commission shall study and assess the following:

1. the financial stability of the federal government;

2. the level of dependency that the state and local governments have on the receipt of federal funds;

3. the risk that the state and local governments in the state will experience a reduction in the amount or value of federal funds they receive, in both the near and distant future;

4. the likely and potential impact on the state and its citizens from a reduction in the amount or value of federal funds received by the state and by local governments in the state, in both the near and distant future; and

5. the likely and potential national impact from a reduction in the amount or value of federal funds paid to the states, in both the near and distant future; and

(B) Until [Insert same date] The commission will make recommendations to the Governor and the Legislature on methods to accomplish the following:

1. avoid or minimize the risk of a reduction in the amount or value of federal funds by the state and by local governments in the state;

2. reduce the dependency of the state and of local governments in the state on federal funds; and

3. prepare for and respond to a reduction in the amount or value of federal funds by the state and by local governments in the state.

(C) On or before [Insert same date], the commission shall report to the Government Operations Interim Committee of the Legislature on the commission's findings and recommendations.

(D) After [Insert same date], the commission shall study, assess, and provide recommendations on any federal issue that the governor, the Legislature through a joint resolution of the Legislature, or the Legislative Management Committee directs the commission to study, assess, and make recommendations on.

Section 6. {Commission Meetings, Quorum, Bylaws, and Support Staff.}

(A) Until [Insert same date], the commission shall meet at least quarterly but no more frequently than once a month.

(B) After [Insert same date], the commission shall meet as directed by the governor, the Legislature, or the Legislative Management Committee

(C) A majority of the commission members constitutes a quorum, and the action of a majority of a quorum constitutes action of the commission.

(D) The commission may adopt bylaws to govern its operations and proceedings.

The Office of Legislative Research and General Counsel [or comparable office] shall provide staff support to the commission.

Section 7. {Expiration.} This Act expires and the Commission is abolished [insert appropriate date five years after enactment].

Section 8. {Severability clause.}

Section 9. {Repealer clause.}

Section 10. {Effective date.}

Statement of Principles on States' Dependence on Federal Funds

Summary:
This statement of principles highlights the common practice of relying on federal funds to bolster a state's general revenue for programs, and encourages legislators to evaluate the risk of an unexpected decrease in federal funding and agencies to prepare contingency plans to continue operations.

Statement:

States must come to grips with the possibility that federal funding assumed by the state's budget may decrease or be eliminated as federal budget priorities and tax revenues change. Without careful planning, states that rely too heavily on federal funds may become unable to maintain necessary levels of service and operations.

In order to continue to provide quality services to its citizens:

- States legislators and the governor should recognize the amount or value of federal funds received annually, and their impact on overall revenue expectations.
- The governor and state legislators should assess the risk of a reduction in federal funding levels throughout the budget process, and create or adjust reserves as appropriate.
- Budget documents should reflect forethought about the possibility of a reduction in federal funds.
- Agencies that receive federal funds should note the amount or value of funds received in their annual budget recommendations, and include contingency plans in the event that federal funding levels are unexpectedly reduced.

Constitutional Amendment Restricting the Use of Vehicle Fees and Taxes for Highway Purposes

Summary

All fees collected by the State of **{insert state}** as license fees for motor vehicles and all excise taxes collected by the State of **{insert state}** on the sale, distribution or use of motor vehicle fuel, and any another motor vehicle related tax or fee shall be paid into the state treasury and placed in a special fund to be used exclusively for highway purposes. Such highway purposes shall be construed to include the following:

(A) The necessary operating, engineering and legal expenses connected with the administration of public highways, county roads and city streets;

(B) The construction, reconstruction, maintenance, repair, and betterment of public highways, county roads, bridges and city streets; including the cost and expense of

(1) acquisition of rights-of-way,

(2) installing, maintaining and operating traffic signs and signal lights,

(3) operation of movable span bridges,

(4) operation of motor vehicle carrying ferries, which are a part of any public highway, county road, or city street; and

(C) The payment or refunding of any obligation of the State of **{insert state}**, or any political subdivision thereof, for which any of the revenues described in this section may have been legally pledged prior to the effective date of this act.

Adopted by the Tax and Fiscal Policy Task Force at the Spring Task Force Summit, May 17, 2008. Approved by the ALEC Board of Directors June 2008.

Resolution to Oppose NCCUSL Effort to Rewrite the Uniform Division of Income for Tax Purposes Act

Summary

This resolution opposes the effort being undertaken by the National Conference of Commissioners on Uniform State Laws (NCCUSL) to rewrite the Uniform Division of Income for Tax Purposes Act (UDITPA). This resolution recognizes that state tax competition and the fundamental right of states to design their own tax structures to reflect the unique nature of their geographical, cultural, and political climates weighs against the NCCUSL effort to develop a uniform approach to taxing income. Further, this resolution recognizes that NCCUSL is funded by state appropriated monies and expresses our concern that NCCUSL would use such funds on an effort that contravenes the competition among states.

Model Resolution

WHEREAS, a uniform tax on corporate income contravenes ALEC's mission to support state sovereignty, and

WHEREAS, state legislatures have designed their individual state tax structure to meet the needs of their in-state businesses thereby distinguishing their state from, and competing directly with, other states, and

WHEREAS, state elected officials strive to differentiate their states with legislative enactment of tax provisions that reflect each state's unique climate for jobs and investment, and

WHEREAS, the NCCUSL effort to rewrite UDITPA is being driven by the Multistate Tax Compact, an organization of tax administrators seeking uniform corporate income tax apportionment rule throughout the states, and

WHEREAS, uniformity of corporate income taxation is not desirable nor practical, thus failing to meet NCCUSL's own criteria for drafting a uniform act, and

WHEREAS, NCCUSL is a quasi-state organization funded by appropriated taxpayer dollars.

NOW, THEREFORE, BE IT RESOLVED that [insert state] opposes the NCCUSL effort to rewrite UDITPA.

BE IT FURTHER RESOLVED that [insert state] urges NCCUSL to discontinue the effort to rewrite UDITPA as a waste of taxpayer funds.

BE IT FURTHER RESOLVED that [insert state] encourages states to review their appropriation of funds for the NCCUSL budget.

Adopted by the Tax and Fiscal Policy Task Force at the Spring Task Force Summit, May 17, 2008. Approved by the ALEC Board of Directors June 2008.

Resolution Urging Congress to Reject "Windfall Profits" Taxes on Energy Companies

Summary

The United States cannot afford to impose additional taxes on companies that are responsible for producing energy to American consumers. This resolution encourages Congress to abstain from passing any legislation which would impose "windfall profits" taxes or other discriminatory taxes on energy companies.

Resolution

WHEREAS, any additional tax on energy companies will hurt energy exploration and will do nothing but increase the price of gasoline for American consumers.

WHEREAS, our experiment with a windfall profits tax on oil companies in the 1980s proved to be economically devastating. Furthermore, the tax crippled the domestic oil industry and failed to raise even a fraction of the revenue forecasted.

WHEREAS, taking aim at profits sets forth an extremely dangerous precedent of targeting certain industries based on their level of success.

WHEREAS, the United States government already collects billions of dollars from energy companies in the form of corporate income taxes, off-shore royalties, severance taxes, property taxes, excise taxes and payroll taxes.

WHEREAS, recent work from the Tax Foundation has indicated that over the past 30 years, our domestic energy companies have paid nearly three times more in taxes than they have earned in profits.

WHEREAS, the proposed windfall profits tax will increase America's dependency on foreign oil by imposing additional costs on capital, increasing the cost of domestic oil production.

WHEREAS, it is sound policy that taxes should be as broad-based as possible and no entity should be disproportionately burdened by taxes.

NOW THEREFORE BE IT RESOLVED, that [insert state] urges Congress to reject all proposals that impose a "windfall profits tax" or any other discriminatory tax on our country's energy industry.

Resolution Urging Congress to Update Tax Treatment of Cell Phones

WHEREAS, in 1989 Congress passed a law treating cell phones or similar telecommunications equipment as “listed property” that an employer must report as income on an employee’ W-2 unless the employee satisfies onerous rules documenting the cell phone or equipment is used for business more than 50% of the time; and

WHEREAS, the Internal Revenue Service (IRS) confirmed this tax treatment of employer-provided cell phones or similar telecommunications equipment as a “fringe benefit” in a 2005 technical guide; and

WHEREAS, it is expensive and difficult for employees to maintain logs listing every call, the time of such calls and the purpose of such calls; and

WHEREAS, the specter of IRS agents continuing to raise the issue of cell phone calls and documentation on audits has prompted many employers to stop providing cell phones to employees but instead give them taxable cell phone allowances; and

WHEREAS, the Tax Code places no similar rules governing personal calls made on land-line telephones; and

WHEREAS, there significant advances in the reliability, versatility, ubiquity, sizing, and pricing of cell phone and other telecommunications technologies in the last 20 years; and

WHEREAS, the Tax Code’s treatment of cell phones and similar telecommunications equipment is outdated, does not correspond to technological advancement in wireless, fails to reflect the integration of wireless technology in American businesses, and is ill-suited to the 21st Century American economy;

NOW THEREFORE BE IT RESOLVED, that [insert state] urges the United States Congress to repeal the Tax Code’s treatment of cell phones and similar telecommunications equipment as listed property and its burdensome reporting requirements for employees.

Statement of Principles for Model State Laws to Encourage Philanthropic Creation and Operation

Philanthropy exemplifies the American ideal of private action in the public interest, demonstrating our faith in the capacity of individual citizens not only to create wealth, but also – voluntarily – to care for their country, their communities and their fellow citizens without undue reliance on government.

Philanthropy shows our commitment to the wellbeing of our neighbors, strangers in need, the wellbeing of the environment, and of our society. It rests upon the premise that both recipients and donors have the capacity for self-government and wise choices and further serves as a laboratory of innovation in addressing some of society's greatest challenges.

The independence of thought and diversity of interests and perspectives of so many committed private actors is the wellspring of the sector's vitality, and must therefore be protected. This deeply-rooted American tradition should be honored as one of America's finest achievements and as evidence of people's capacity for individual initiative and self-governance, not burdened with costly and potentially crippling constraints on its work.

Promote and facilitate *innovation* in the philanthropic sector:

- Simplify and streamline the process for establishing foundations, trusts and donor advised funds
- Modernize state trust and charitable benefit laws to encourage innovation in the creation of charitable vehicles to encourage and advance philanthropy
- Simplify the valuation of in-kind charitable donations

- **Lessen bureaucratic burdens faced by foundations and promote *simplicity*:**
  - Accept the federal forms 1023 and 990-PF for state tax exempt recognition and tax filing requirements
  - Promote and expand electronic filing of state required documents
  - Develop streamlined procedures for operational oversight or regulation of foundations by agency(s) of the State

- **Protect foundations' rights to *self-governance*:**
  - Establish by law that decisions concerning the size and composition of foundations' board and staff are exclusively within the discretion of foundations themselves consistent with the foundation's governing documents

- **Safeguard the *freedom* of foundations to pursue their diverse and myriad charitable purposes:**
  - Establish by law a foundation's charitable mission and the scope of their work be determined solely by the foundation's bylaws and incorporating documents

- **Promote the highest standards of *integrity* in the philanthropic sector:**
    - Impose or increase current excise tax penalties on those engaging in self-*dealing*
    - Make tax-exempt entities and their managers subject to penalties for facilitating tax shelter transaction

Statement of Principles on Philanthropic Freedom

Philanthropy exemplifies the American ideal of private action in the public interest, demonstrating our faith in the capacity of individual citizens not only to create wealth, but also—voluntarily—to care for their country, their communities, and their fellow citizens without undue reliance on government.

Philanthropy rests upon the premise that both recipients and donors have the capacity for self-government and wise choices. This vital and diverse element of civil society should be honored as one of America's finest achievements and as evidence of people's capacity for individual initiative and self-governance.

Legislatures should not pass legislation that encroaches upon the freedom of foundations to operate as private institutions or to limit the ability of foundations to make granting decisions based on their own guiding documents. The IRS has a clear determination for organizations who qualify as not-for-profits; states should not seek to politicize charity by limiting the choices of charities that foundations can support. Local organizations are best able to make these decisions.

A free and vibrant civil society, which includes foundations and charities, is quintessentially American and is well worth protecting. It should be the goal of every legislature:

- To preserve the distinctive contributions of all foundations, including small, operating, and family foundations, to American life;

- To safeguard the freedom of foundations to carry out their various charitable objectives;

- To maintain common-sense laws and regulations that impose strict penalties on wrongdoers without trapping the innocent or wasting valuable charitable assets; and,

- To expand and celebrate America's leadership as the most generous and charitable nation on earth.

As such, fundamental principles of philanthropic freedom include the following:

- Fair: Any measure affecting philanthropic organizations must not favor certain types of charities over others. Philanthropy serves as an indispensable laboratory of innovation in addressing many of society's greatest challenges. The independence of thought and diversity of interests and perspectives produced by having so many committed private actors is the wellspring of this sector's vitality, and must therefore be protected.

- Economically Sound: Any tax or regulation on foundations necessarily harms the charities and causes they support, and, by extension, weakens our civil society. Civil society is strongest when participation by all members of society is encouraged.

- Simple: The tax and other reporting systems should be as simple as possible, and should minimize complexity. The cost of tax and regulatory compliance is a real cost to society and complexity serves as a disincentive to creating new foundations.

- Transparent: The Internal Revenue Service requires foundations to submit an annual disclosure form (990PF). These forms ensure compliance with tax law and disclose all grants made by the organization. As private institutions, philanthropic organizations maintain the right to determine their own internal policies and governance practices, as long as they operate within the law.

- Predictable: Many foundations are formed in perpetuity to serve social needs and to build better communities. When creating new philanthropic organizations, it is important that donors know that changes in the laws will not weaken their original mission and intent.

Adopted by the Tax and Fiscal Policy Task Force on July 31, 2008.
Approved by the ALEC Board of Directors on September 11, 2008.

Resolution Urging Congress to Eliminate Discriminatory State and Local Taxes on Automobile Renters

Summary

This resolution encourages Congress to eliminate discriminatory State and Local Taxes on automobile renters.

Model Resolution

WHEREAS, since 1976, 42 states and the District of Columbia have enacted more than 100 car rental excise taxes, which are beyond typical sales taxes, resulting in car rental customers paying more than $6 billion since 1990; and

WHEREAS, the National League of Cities in its May 2006 publication of TAXING PROBLEMS: Municipalities and America's Flawed System of Public Finance recognized this unfair taxing burden on specific economic sectors and among its suggested solutions stated that "Governments should impose equitable and fair revenue burdens on individuals, corporations, communities, sectors, income classes and generations"; and

WHEREAS, the revenues from the vast majority of these taxes have gone to pay for unrelated projects such as sports stadiums, convention centers, performing arts centers, art museums, police and fire stations and public transportation; and

WHEREAS, state and local officials have rationalized these excise taxes because they believe the majority of these taxes will be paid by out-of-towners, thereby interfering with interstate commerce; and

WHEREAS, Congress has the constitutional power to regulate commerce among the states and has given protection to industries that are a part of interstate commerce – such as railroads, airlines, trucking and buses – from state and local governments that wished to discriminately tax those industries; and

WHEREAS, there is a growing coalition – the Coalition Against Discriminatory Car Rental Excise Taxes. The coalition consists of Alamo Rent A Car, the American Car Rental Association, American Society of Travel Agents, Americans for Tax Reform, Avis Rent-A-Car, Budget Rent-A-Car, Dollar Rent A Car, Enterprise Rent-A-Car, The Hertz Corporation, National Car Rental, National Business Travel Association, National Consumers League, National Limousine Association, Thrifty Car Rental, and Truck Renting and Leasing Association; and

NOW THEREFORE BE IT RESOLVED, that [Insert State] urges Congress to end discriminatory excise taxes on all car renters.

Adopted by the Tax and Fiscal Policy Task Force at the Spring Task Force Summit, May 17, 2008. Approved by the ALEC Board of Directors June 2008.

Chicago Tribune
NEWS

Editorial: Durbin's enemies list

Rather than accusing political enemies of flouting federal law, Sen. Dick Durbin is suggesting that he may publicly expose them to public outrage over the killing of Trayvon Martin.

August 08, 2013

"It is absolutely unacceptable to single out any political group — right, left or center — and say we're going to target them. That is unthinkable. That goes back to some of the worst days of the Richard Nixon administration."

—U.S. Sen. Dick Durbin, D-Ill., on IRS targeting of conservative groups for special scrutiny, May 13, 2013.

Free speech isn't always free. It gets downright cumbersome when Dick Durbin has you on his enemies list. Consider: We were surprised in the early days of this spring's Internal Revenue Service scandal to see Durbin voice indignation with the IRS for apparently behaving just as he had urged it to: In an Oct. 12, 2010, letter to then-IRS Commissioner Douglas Shulman — we have Durbin's press release, including his letter — the senator urged an investigation of "several 501(c)(4) organizations that appear to be in violation of the law."

But Durbin's letter only cited one group by name: Crossroads GPS, a conservative group that has spent heavily on advertising to promote fiscal responsibility, limits to government regulation and national security.

Durbin said this year on Fox News that he hadn't sicced the IRS on any liberal groups because ... an investigation of Crossroads would put them, too, on notice. Crossroads says it scrupulously obeys the federal laws that regulate all such groups. We've seen no evidence that Durbin's accusation of crimes was accurate, but he surely achieved one goal: He made potential donors think twice about contributing to a group a U.S. senator had publicly named as an illegal operation.

Now, though, Durbin has changed tactics. Rather than accusing political enemies of flouting federal law, he's suggesting that he may publicly expose them to public outrage over the killing of Trayvon Martin. The editorial page of Thursday's Wall Street Journal reported

that the senator has sent letters to corporate and nonprofit supporters of the American Legislative Exchange Council, asking them to disclose their positions on "stand-your-ground" legislation that ALEC supported in Florida in 2005.

ALEC, which is holding its annual meeting in Chicago this week, is a conservative association of state legislators, foundations and businesses that advocate limited government and free markets. Many but not all of its areas of focus are economic. As Durbin writes in his letter to ALEC donors:

"... Although ALEC does not maintain a public list of corporate members or donors, other public documents indicate that your company funded ALEC at some point during the period between ALEC's adoption of model 'stand your ground' legislation in 2005 and the present day. ... I am seeking clarification whether organizations that have funded ALEC's operations in the past currently support ALEC and the model 'stand your ground' legislation."
Durbin adds that in September he will convene a subcommittee hearing "to examine 'stand-your ground' laws, and I intend to include the responses to my letters in the hearing record. Therefore, please know that your response will be publicly available."

So while the letter acknowledges that recipients have a right to participate in policy debates, Durbin's intent is transparent: *Renounce ALEC, and quit donating money, or I'll shame you but good.*

The Journal notes that as Durbin well knows, companies that support ALEC's economic initiatives don't care about "stand-your-ground" laws: "His goal is to scare them with reputational damage by mentioning them in the same breath as Trayvon Martin."
Durbin's communications director, Max Gleischman, told us Thursday afternoon that the senator's goal isn't to silence groups he opposes, but "to find out if groups that support (ALEC) financially agree with (ALEC's) position on 'stand your ground' laws. Simple as that."

If only thinly coded letters from senators with as much clout as Durbin were that benign. Because it would be more than wrong for a U.S. senator to use the power of his high federal office as a cudgel against his enemies. We'll give the last word on that to Durbin himself:

"It is absolutely unacceptable to single out any political group — right, left or center — and say we're going to target them. That is unthinkable. That goes back to some of the worst days of the Richard Nixon administration."

The Star.
THE KANSAS CITY STAR

Kansas tax reform is a good model for Missouri

June 25

BY TIM JONES
Special to The Star

Over the past year, Kansas lawmakers have accomplished major tax reform and have managed to get the state economy back on track. These improvements are great for Kansans and challenge neighboring states to compete for business and job growth. Unfortunately, some Missouri lawmakers have not learned the lesson.

The Kansas reform plan reduced the income tax system to two tiers rather than three, decreased the top and bottom tax rates and will phase in even more reductions to the state income tax over the next five years.

Additionally, the plan included an exemption or all non-wage income for pass through entities, such as limited liability companies and partnerships. Such improvements effectively eliminated the income tax for many small businesses in Kansas. The results of the reform have already improved the Kansas economy.

In 2012, Kansas had more than 15,000 new small business filings, the largest number in state history. Economists at Wichita State University project that Kansas will double its monthly job growth in 2013. The Kansas unemployment rate is currently 5.5 percent, down from 7.2 percent in January of 2010.

On the other hand, Missouri's unemployment rate has plateaued at 6.6 percent. Perhaps most troubling for Missouri is the Kauffman Foundation's small business climate ranking, which gives Missouri a C and Kansas an A.

In order to remain competitive with our neighbor, Missouri legislators made a serious push for pro-growth, pro-jobs tax reform in the General Assembly this past session.

Our plan would have exempted 50 percent of non-wage pass through income from taxation, cut the corporate income tax rate in half and lowered the personal income tax from 6 percent to 5.5 percent.

Governor Nixon vetoed our plan, citing concerns about the fact that Missourians would be able to keep about $692 million of their own money each year once the tax cuts were complete. There is a chance the governor's veto can be overridden.

Critics of our plan have been vocal in their skepticism that tax cuts spur economic growth. However, the record is clear that higher taxes negatively impact economic growth.

In the newest edition of "Rich States, Poor States," a report by the American Legislative Exchange Council that ranks states' economic climates using 15 equally weighted economic policies, Kansas jumped 15 spots in the ranking between 2012 and 2013. Sitting at 11th place, Kansas has adopted tax policies that make it more economically competitive than our own Show-me State, which fell from 7th place in 2012 to 23rd place this year.

The "Rich States, Poor States" report shows that states with no income tax outperform their high tax counterparts in the areas of job growth, domestic migration and even tax revenue growth. Over the past 10 years, the nine states with no income tax grew their overall gross state product by 40 percent more than the nine states with the highest income taxes. States with a lower tax burden and a friendly business environment will continue to outperform their higher tax competitors.

Kansas has proven that competitive economic policies promote a business-friendly environment, attracting new companies and, with those new companies, more jobs. Kansas has a lower unemployment rate than Missouri and Kansas families get to keep more of their hard-earned dollars than Missourians. The facts are right in front of us. We cannot allow the Show-Me State to continue to lose economic competitiveness to Kansas.

Tim Jones, a Eureka a Republican, is the speaker of the Missouri House of Representatives.

THE HILL

October 21, 2013, 06:17 pm

Look to state governments as models of leadership

By John Piscopo

Perhaps now is the time to remind Americans of the significance of state governments. While being heard by Congress seems like a monumental task, Americans can talk to—and be heard by—their local lawmakers. Local governments are best suited to address local issues, and together, a chorus of state lawmakers can elicit real change in a state's direction and hold sway over the federal government.

The United States Constitution was designed with local governments in mind. The 10th Amendment gives power to the states and to the people and reminds all Americans they do have a seat at the table. And, while the federal government was shut down, state governments were open and fully functional. States have bills to pay, promises to keep and their constituents to serve.

Significant to state governments is their relationship with their citizens. State officials live and work among their constituents, and it is much harder to ignore the praises and protests of your constituents when they are your neighbors. This type of relationship is what keeps state governments accountable and helps them more easily reflect the needs of their residents. Governing from 2,000 miles away is a difficult task, and it is no wonder people say Congress and the Administration are detached from the rest of the nation: they physically are.

In 48 states, the law requires a balanced budget, and states' taxation policies, education policies, environmental policies and other policies give them their own unique signatures. The beauty of state governments is not their similarities, but their differences. These differences give Americans the ability to make decisions on what is best community by community, from deciding in which state to live to which state to own a business. State governments provide choice for the American people, and those choices are what allow Americans to make decisions best suited for them.

State governments are representative of the government our founders envisioned: of the people, by the people and for the people. The first priority of state governments is to answer their residents, not the federal government. While it is true state lawmakers have come to impasses—Connecticut's government shut down in the early nineties—the effects of a state shutdown are felt immediately and painfully, making state government shutdowns a particularly distasteful course for lawmakers. This shutdown marked the 18th time the federal government has shut down since 1976. Certainly it

seems the federal government is willing to use the American people as a bargaining chip.

Perhaps it is time to remind the federal government of its purpose. If government is emblematic of the people it serves, then our federal government does not hold the American people in high regard. While there will always be differences in opinion, state governments show that regular compromise can be achieved and that opposing parties can work together. It is time the federal government looked to the states as models of leadership.

Piscopo is a state representative from Connecticut and serves as the National Chairman of the American Legislative Exchange Council.

THE WALL STREET JOURNAL.

Rocky Mountain High Taxes

Democrats and unions try to kill Colorado's flat tax.

Oct. 23, 2013 7:25 p.m. ET

Colorado has veered to the political left in recent years, and on November 5 it may take another leap toward California. The Democrats and unions who now run state government are promoting a ballot initiative that would raise taxes and unleash a brave new era of liberal governance.

The Colorado Tax Increase for Education, or Amendment 66, follows the well-trod union script of claiming to raise taxes in the name of better schools. Its real purpose is to repeal restraints on tax increases and open the door to even higher taxes and more spending on everything.

The referendum would repeal the state's current flat income-tax rate of 4.63% that liberals loathe because raising it requires raising taxes on nearly all Coloradans. And sure enough, Amendment 66 would raise the rate to 5% on income up to $75,000, and to 5.9% on all higher earners. That's a 26.6% tax increase on anyone making more than $75,000 a year.

That's also a $950 million revenue increase for politicians in the first year alone, but the real prize is down the road. Once a graduated tax code is in place, unions and Democrats will try again and again to raise tax rates on "the rich." This has happened everywhere Democrats have run the show in the last decade, from Maryland to Connecticut, New York, Oregon and California. Within a decade, the top tax rate will be closer to 8% or 9%.

Colorado's liberals may aspire to join the left coasts, but that won't make the state any more competitive in its interior U.S. neighborhood, where states like Kansas and Oklahoma are cutting tax rates. High-tax states created one net new job for every four in states without an income tax from 2002-2012, according to a study for the American Legislative Exchange Council.

Polls show that the main issue for Colorado voters now is the economy. That's not surprising given that household incomes in Colorado remain 7.2% below pre-recession levels, according to Census Bureau data. A 2011 study by Ernst & Young found that more than half a million small

businesses in Colorado, or 92% of all in-state businesses, pay taxes at individual tax rates and thus would face a tax increase under Amendment 66.

The sales pitch is that this tax windfall is earmarked for education, but if you believe that you must be a college professor. Amendment 66 states that "at least 43% of state sales, excise and income tax revenues" must be spent on education. The main result would be to make spending on education untouchable in the future and to make it harder for politicians to set priorities.

Unions know that money is fungible, so a tax increase earmarked for education means that other revenue can be used to delay reform in the state's badly underfunded public teacher pension plan. Funding for Medicaid, roads and other state priorities won't decrease, so earmarking more for education would increase pressure for another tax increase. It's no accident that Amendment 66 states that "all tax revenues attributable to this measure to be collected and spent without future voter approval."

The language of Amendment 66 also includes no reforms in return for the new cash—no teacher accountability, no increase in school choice, and no pension reforms. Supporters say it would allow for implementation of a state legislative reform, but unions are already trying to block that.

The initiative is also an attempt to bail out Denver schools by taking more cash from the rest of the state. For every $1 the scheme would take from suburban school districts, such as Jefferson and Douglas counties, the state would send back 50 to 60 cents, according to the state treasurer's office. The state funding formula already encourages counties to raise property tax rates in order to get more state cash, so this tax increase will only be round one.

A new study by the University of Colorado Leeds School of Business found close to zero relationship between changes in per pupil spending on Colorado schools and changes in test scores and graduation rates. It notes, for example, that "although Cotopaxi School District received nearly a 36% increase" in per pupil funding from 2007-12, the highest in the state, "its test scores dropped by 8.3%."

As recently as 2011, Colorado voters voted down a state sales and income-tax increase, but the unions keep coming. And it's no surprise they've already put $2 million behind Amendment 66. If it passes, they know they'll get a big return on that political investment for decades to come. If it does pass, we'll also know that millions of Coloradans have taken to smoking that marijuana they legalized last year.

policymic

Think Millennials Aren't Affected by Pension Reform? Think Again.

By William Freeland September 30, 2013

For many millennials, retirement is a remote topic they assume can be safely ignored for the better part of the next decade. However, as the nation watches Detroit grapple with freezing pensions — many for workers who having been relying on those pensions for years to safely retire — millennials would be smart to start taking retirement planning seriously.

Public pension policy affects millennials' compensation early in their careers, impacts their ability to switch between the public and private sectors later in their career, and affects the level of public services their state and local governments will be able to provide them in the future for their hard earned tax dollars.

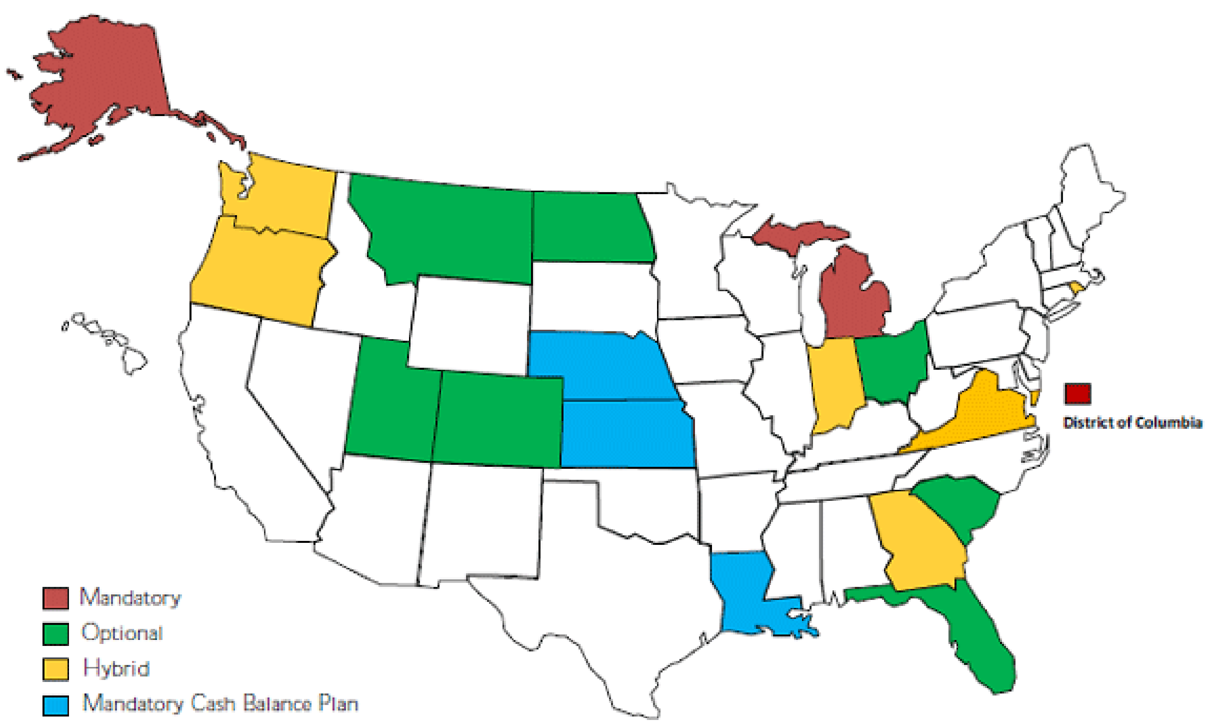
The key issue at the heart of public pension policy is lies in a state's pension arrangement and whether or not it is a defined benefit plan (DB) or a defined contribution plan (DC). Former Utah State Senator Dan Liljenquist defines the difference in his recent American Legislative Exchange Council publication, *Keeping the Promise: State Solutions for Government Pension Reform*.

*A **defined benefit plan**, which is the traditional definition of a pension, obligates the employer to pay the employee a series of payments in retirement regardless of how small the investment*

returns were. In a defined benefit plan, the employer decides how to invest retirement funds. About 90% of all public pensions are DB plans.

A ***defined contribution plan*** *requires the employer to make certain payments into an employee's account during that person's tenure on the job. The employer's obligation ends once the employee leaves the job. In a defined contribution plan, the employee usually decides how to invest retirement funds, and the employer makes no promises as to the amount of money the retiree will have. Most private sector jobs are defined contribution pension plans.*

After college, I began as a researcher at George Mason University, a public university in Fairfax, VA. When I started, I was offered two choices: I could enter into a state defined benefit pension plan, which would require me to compile at least five years of service to the state of Virginia in order to ever collect a single payment, or I could enter the state defined contribution plan, which works much like a 401k. From day one, all of the retirement contributions made by my employer on my behalf would go into my own personal account. Whenever I chose to leave public service in Virginia, I would take 100% of the retirement contributions I made and and those made on my behalf by the state with me to my next job. The National Conference of State Legislators has a helpful map detailing what states have mandatory, optional, or hybrid defined contribution plans:



This arrangement is in stark contrast to what some states offer their young employees. Had I started in a state where my only option was a defined benefit plan, I may have been forced to accumulate 10-20 years of service to even qualify for a dollar of retirement benefits to be paid to me. If I ever considered leaving public service before that threshold, I would have been faced with leaving a significant amount of money on the table that, in theory, I was supposed to have earned as an element of my total compensation plan.

This is a huge problem for millennials interested in public service. They are faced with a “lock-in” effect that creates a sharp disincentive to ever leave public service once they begin. Or similarly, young people who first entered the workforce in the private sector are disincentivized from entering government later in their careers because of the service years requirement necessary to receive a retirement benefit payment; call this a “lock-out” effect. Though defined benefit plans and their accompanying service year requirements may create some degree of incentivized loyalty among government workers, it likely does more to discourage talented workers — young and old — from entering public service due to the “lock-in” and “lock-out” effects.

Not only that, but as Dan Liljenquist further points out in *Keeping the Promise: State Solutions for Government Pension Reform*, defined benefit plans have a key shortfall: "Their long-term health is subject to manipulation for short-term political gain. A legislator who pushes through an increase in the service credit gets a political boost today from public employees. The cost of that improvement, however, may not be felt until long after that person leaves office."

This reality has two problematic outcomes that directly impact millennials.

First, millennials who do get stuck in defined benefit plans face a real threat that their promised benefits will get chopped in the future. As can be seen in the current experiences of Detroit and dozens of other municipalities, state and local governments often make pension promises they are not able to keep in the future. Given that state and local pensions are underfunded by $4 trillion or more, promised benefits to millennials in defined benefit plans are not particularly trustworthy or reliable.

Second, both millennials in public service and those in the private sector are affected by the looming pension crisis, which is threatening to damage many states and municipalities, just as it has in Detroit. Not only are retiree benefits cut by underwater pension plans, but public services are cut due to the strain on state and local budgets. That means millennials will face getting worse or fewer public services than their parents for the same or higher levels of taxation.

Luckily, this is a problem that state legislators, given a clear vision and the courage to act, can indeed fix. States like Michigan, Utah, Alaska, and Rhode Island have taken bold steps to fix their broken pension system. Good government for and by millennials requires commonsense public pension reforms to be undertaken sooner rather than later.

ALEC is Right

by David Brunori
August 5, 2013

My liberal friends hate the American Legislative Exchange Council (ALEC), seeing it as part of some grand Koch brothers-inspired conspiracy to make the rich richer and the poor poorer. I don't hate ALEC, especially since it no longer focuses on social issues. And I think it's correct on the tax and economics topics.

Recently, it featured a piece denouncing the unfair tax treatment among business groups. Some companies and industries get tax breaks, and some don't. It all depends on who you know and whose palm you grease. Liberals and conservatives are both guilty of picking winners and losers in the marketplace. ALEC stated:

> Fair marketplace competition requires neutral treatment of businesses irrespective of their product or service, production methods, various financial features (i.e. capital intensity of production, labor intensity of production, use of shipping, use of subsidiary locations, etc.), or business organization. A simple test for sound tax policy in this regard is the following query: are entrepreneurs and business leaders making business decisions for tax purposes? If the answer for a state is "yes," that state's tax code is creating market distortions and an unfair competitive balance in affected marketplaces.

ALEC is absolutely right. Its solution is to move away from income taxation and toward consumption taxation. You may or may not agree. But building a tax system that is as neutral as possible when it comes to business taxation is critical to sound tax policy.

American Legislative Exchange Council

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